IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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I.T.A. No.399 of 2006
Date of Decision:05.02.2007

The Dhapali Co-operative Labour & Construction Society Ltd., Dhapali, Distt. Bathinda

.....Petitioner

Vs.

Commissioner of Income Tax, Central Revenue Building, Bathinda

.....Respondent

CORAM:- HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- None.

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Rajesh Bindal, J.

The present appeal, is directed against a common order dated 16.11.2005 passed by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for short, `the Tribunal') in I.T.A. No.419 (ASR)/2005 and in cross objection No.31 (ASR)/2005 dated 15.2.2006 arising out of ITA No.419(ASR)/2005 in respect of assessment year 2002-03. The assessee has sought to raise the following substantial questions of law:-

"(i) Whether the impugned assessment of the net profits and gains of the assessee and the assessment at the rate of 6% is ultra vires of principle of natural justice and legal, justified and in order in the facts and circumstances of the case?

(ii) Whether in the case of availability of two views, view in favour of the assessee is to be adopted?

(iii) Whether the instructions issued by the Central Board of Direct Taxes under Section 119 of the Income Tax Act are binding upon the Income Tax Authorities?:

(iv) If the answer to the question no.(iii) is in negative whether the Income Tax Authorities at the time of assessment can travel beyond reasons recorded at the time of scrutiny and the reasons can be withheld from the assessee?

(v) Whether in the facts and circumstances of the case the appellant assessee is entitled to be granted the benefit under section 80(P)(2) (a) (vi) of the Income Tax Act and that too in view of the benefits granted for the last more than one decade?

(vi) Whether on the employment of some outside labour the cooperative society is to be deprived of the exemptions of the whole of the amount of profits and gains and income of the collective disposal of the labour of its members?

(vii) Whether it is mandatory upon the income tax authorities to decide the contentions/ submissions advanced before them?

(viii) Whether it was incumbent upon the ITAT, Amritsar Bench to decide the cross objection no.31 (ASR)/2005 in ITA No.419(ASR)/2005 alongwith I.T.A. No.419/ (ASR)/2005 and the non decision thereof together has caused manifest injustice to the appellant assessee in the facts and circumstances of the case and the decision on the cross objection have been reduced to be mere illusory in the facts and circumstances of the case?

(ix) Whether the whole approach of the ld. Income Tax Authorities below in deciding the case against the appellant assessee suffer from perversity and is based upon assumptions and presumptions and surmises and conjectures?

(x) Whether the provisions for deduction/exemptions is to be interpreted liberally in favour of assessee?

(xi) Whether discriminatory and unfair treatment is being met out to the appellant society?"

We find that identical issues were raised by similarly situated labour and construction socieities in I.T.A. No.347 of 2006 – **The Taj Co-operative Labour & Construction Society v. Commissioner of Income Tax, Central Revenue Building, Bathinda** and I.T.A. No.348 of 2006 – **The Nirmata Co-operative Labour & Construction Society v.**

Commissioner of Income Tax, Central Revenue Building, Bathinda decided on 27.10.2006 wherein following earlier order passed in I.T.A. No.20 of 2006 – **The Bandi Cooperative Labour & Construction Society v. Commissioner of Income Tax, Central Revenue Building, Bathinda,** decided on 16.5.2006, the appeal was dismissed.

For the reasons recorded therein, we do not find any substantial question of law arises in the appeal, accordingly, the same is dismissed.

(RAJESH BINDAL)
JUDGE

February 05, 2007 **(M.M.KUMAR)**
renu **JUDGE**